

11—105.18(8A) Vendor performance.

105.18(1) *Review of vendor performance.* The department, in cooperation with agencies, shall periodically, but at least directly prior to renewal of a master agreement, review the performance of vendors. Agencies are encouraged to document vendor performance throughout the duration of the contract and report any problems to the department as they are identified. Performance reviews shall be based on the specifications of the master agreement or order, and shall include, but need not be limited to:

1. Compliance with the specifications,
2. On-time delivery, and
3. Accuracy of billing.

This review will help determine whether the vendor is a responsible bidder for future projects.

105.18(2) *Vendor suspension or debarment.* Prior performance on a state contract may cause a vendor to be disqualified or prevent the vendor from being considered a qualified bidder. In addition, a vendor may be suspended or debarred for any of the following reasons:

- a. Failure to deliver within specified delivery dates without agreement of the department or the agency.
- b. Failure to deliver in accordance with specifications.
- c. Attempts to influence the decision of any state employee involved in the procurement process.
- d. Evidence of agreements by vendors to restrain trade or impede competitive bidding. Such activities shall in addition be reported to the attorney general for appropriate action.
- e. Determination by the civil rights commission that a vendor conducts discriminatory employment practices in violation of civil rights legislation and executive order.
- f. Evidence that a vendor has willfully filed a false certificate with the department.
- g. Debarment by the federal government.

105.18(3) *Correcting performance.* The department shall notify in writing any vendor considered for suspension or debarment and provide the vendor an opportunity to cure the alleged situation. If the vendor fails to remedy the situation after proper notice, the department director may suspend the vendor from eligibility for up to one year or debar the vendor from future business depending on the severity of the violation. The appeal provisions of this chapter shall apply to the decision of the director.

105.18(4) *Remedies for failure to deliver or for delivery of nonconforming goods or services.* If a vendor fails to remedy the situation after the opportunity to cure is provided, the department or agency may procure substitute goods or services from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The attorney general shall be requested to make collection from the defaulting vendor.